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**Criminal Justice Responses to Mental Health  
Testimony by Sheriff David Gutierrez  
Lubbock County Sheriff's Office  
Lubbock, Texas**

**Sub-Committee on Crime, Terrorism &  
Homeland Security**

**“Criminal Justice Responses to Offenders  
with Mental Illness.”**

**March 27, 2007**

Mr. Chairman, Vice-Chair, and distinguished Members, my name is David Gutierrez, Sheriff of Lubbock County, Texas. I want to thank you for the opportunity to speak to you about some serious issues we are facing in the criminal justice system today. As a Sheriff and a 30-year veteran of law enforcement, I have seen our criminal justice system evolve and have faced the tremendous challenges in the growth of not only our law enforcement on the front line—the first responders—but in the growth of our detention and institutional systems.

In Texas, as in many states, the Sheriff is the keeper of the jail. While we continue to provide law enforcement services and maintain peace in the county, the Sheriff receives all individuals arrested by every peace officer, including city police officers, county deputies, state police, and federal agencies. Law enforcement officers are trained to maintain the peace and arrest individuals when laws are violated. During initial contact by law enforcement officers, many individuals interviewed may be disoriented and become combative and result in additional charges, such as Aggravated Assault on a Peace Officer or Attempted Capital Murder on a Peace Officer, being added to further compound the original breach of the peace. These charges, while valid, may be the result of a mental health or special needs issue. Most peace officers across the country are not trained on recognizing these symptoms.

Once arrested, the individual is transported to the local county jail, where they are processed and the uncooperative individual is then treated accordingly. Additional charges may be added there if a detention officer is assaulted.

The reality is that the jails and prisons of criminal justice systems nationwide have become the institutions at which individuals with mental impairments/special needs are placed. There are no standardized methods used to identify them prior to or during the incarceration process. When mentally impaired offenders arrive at correctional facilities the jail staff, in most cases, does not have the professional training or understanding to address their needs or the circumstances surrounding their incarceration. As a result, attempted and achieved suicides, inmate-to-inmate assaults and inmate-to-officer assaults have dramatically increased in our jail and prison facilities.

In 1998, in Lubbock County, Texas, a “Memorandum of Understanding” (MOU), was developed with the Regional Mental Health and Mental Retardation unit to:

- Provide on-call Crisis Intervention Counselors to come to the scene when law enforcement officers believe the suspect being detained may have a mental disorder to indicate a need for diversion prior to arrest.
- Utilize an on-site mental health assessment at the correctional facility to determine if a suspect has a possible mental health issue, and if that assessment indicates a mental health issue, diversion to a local mental health facility could be an option in lieu of incarceration.
- If jail officials, during the booking process, have reason to believe an individual may have a mental health issue, the Crisis Intervention team will arrive within 4 hours at the jail facility and interview the individual for mental health services
- All individuals arrested are treated as indigents while incarcerated and receive treatment and medication for continuum of care.

The MOU in Lubbock was a major step in assisting individuals entering the criminal justice system with mental health/special needs issues; this was just the beginning of a front line attempt to an enormous problem. One of the most pressing problems is that even though we have diversion plans in effect there are no diversion facilities statewide to place these individuals. In my opinion, this is one of the crucial areas that we are deficient in.

While we, as Sheriffs’, dealt with these issues, the State of Texas was not naïve to these issues. In 1996, the Texas State Legislature statutorily allowed medical information, in accordance with the federal Health Insurance Portability and Accountability Act, to be disseminated between the medical profession and the criminal justice system. This allowed for a continuum of care for individuals which are incarcerated.

In 2006, the Texas Department of Criminal Justice and the Department of State Health Services cross-referenced each other’s offender/client databases to establish a prevalence rate of offenders who were former or current clients

of the public mental health system. The following is the result of the state's cross referencing:

Texas Department of Criminal Justice  
Client Assignment and Registration System (C.A.R.E.) Match Rates  
February 2006

In addition, a 2005 report prepared by the Texas Commission on Jail Standards, found that 29% of inmates sentenced to prison had been identified as being a former mental health client, but had not been identified as an individual with mental health issues while at the county jail when processed.

	Entire Population	C.A.R.E. Matches
Prison:	151,528	45,628 (30%)
Parolees:	77,167	21,097 (27%)
Probationers:	430,312	57,719 (13%)
<b>Totals:</b>	<b>659,007</b>	<b>124,444 (19%)</b>

Following those findings, a committee directed by the Texas Legislature was formed to determine what can be done to appropriately handle the prevalence of offenders with mental health impairments and the lapses in identification, along with other issues. The committee recommended the following:

- All 254 Counties and their respective Sheriffs' Offices in Texas develop and have a MOU and Diversion Plan for individuals with mental impairments with the 41 Regional Mental Health and Mental Retardation units;
  - That the Texas Commission on Jail Standards oversee as part of annual jail inspections:
    - A medical screening form is part of the initial intake;
- A cross reference with the state's C.A.R.E. system is performed on all individuals arrested to determine if an individual is a client of the public mental health system. This will assist law enforcement, jail officials, the public defender and the county/district attorney's offices in the adjudication of their cases.
- That the C.A.R.E. system be made available by computer to be accessed by any Texas law enforcement officers. This information should be available immediately while the officer is making contact with the individual/suspect to help determine an appropriate course of action by the officer for possible diversion and;
- That all 80,000 Texas Peace officers have Crisis Intervention Training as part of their 40 hours of state-mandated continuing education. This would assist with early-assessment during the initial contact with an offender and possible diversion to the criminal justice system.

The impact to the families of mentally impaired offenders can be, and too frequently is, catastrophic. Many families with a mentally impaired family member turn to the law enforcement community as a last result, no longer being able to deal with the individual's violent tendencies. This cry for help usually comes at a point of calamity with their mentally impaired family member. Due to their extreme or erratic behavior, many offenders with mental impairments are injured or killed while in contact with law enforcement during this time of crisis. Law enforcement and detention administrators across the United States are greatly concerned that they do not have the proper tools, training, and information at their disposal to ensure that offenders with mental impairments are dealt with in a safe and

suitable manner, which would provide positive outcomes for everyone involved in these situations.

The bottom line is that we need to hold those who intentionally violate the law accountable, and help those whose condition makes them incapable of intentionally violating the law.

In conclusion, I want to thank you for your commitment to this issue. There are millions of families impacted by the lack of appropriate facilities for men and women with mental health impairments. Too often an individual with mental health impairments becomes the responsibility of the criminal justice system because it is easier and safer to have them behind bars rather than in society. With your help we can work together to create state and national guidelines that will divert these individuals to more appropriate facilities.